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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

MLW MEDIA LLC,

Plaintiff,

v.

WORLD WRESTLING  
ENTERTAINMENT, INC.,

Defendant.

) CASE NO. 5:22-cv-00179-EJD

)

) **PLAINTIFF'S MOTION TO SHORTEN**  
) **TIME FOR THE INITIAL CASE**  
) **MANAGEMENT CONFERENCE**

)

) **Pursuant to Local Rules 6-1, 6-3, and 7-**  
) **1(a)(2)**

)

) Action Filed: January 11, 2022

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**PLAINTIFF'S MOTION TO SHORTEN TIME FOR THE INITIAL CASE MANAGEMENT  
CONFERENCE**

Case No 5:22-cv-00179-EJD

**NOTICE OF MOTION**

PLEASE TAKE NOTICE THAT pursuant to the Northern District of California’s Civil Local Rules 6-1, 6-3, and 7-1(a)(2), and this Court’s ECF guidance, and upon the attached points and authorities and the accompanying Declaration of Jason S. Takenouchi (“Takenouchi Decl.”), Plaintiff MLW Media LLC (“MLW”) hereby moves to shorten the time for the Initial Case Management Conference to September 29, 2022.

**MOTION**

This action arises from Defendant World Wrestling Entertainment, Inc.’s (“WWE”) egregious misconduct to destroy its competitor MLW’s business by pressuring platforms to sever their relationships with MLW so that MLW could not air its new wrestling programs on those platforms and by locking up critical inputs, such as wrestlers and venues. MLW has brought claims against WWE for violation of Section 2 of the Sherman Act, intentional interference with contractual relations and other related claims.

MLW initiated this suit on January 11, 2022 (ECF No. 1) seeking damages as well as injunctive relief from WWE’s anticompetitive practices. On January 12, 2022, the Court entered an Order Setting Initial Case Management Conference and ADR Deadlines (ECF No. 6), setting the Initial Case Management Conference for April 12, 2022. In a January 28, 2022 text-only docket entry, the Court reset the Initial Case Management Conference for April 21, 2022. (ECF No. 13). Defendant filed a Motion to Dismiss on March 15, 2022 (ECF No. 19), and the parties completed briefing on May 16, 2022, pursuant to the So-Ordered briefing schedule (ECF No. 22). On March 24, 2022, the Court entered a minute order continuing the Initial Case Management Conference to October 27, 2022. (ECF No. 32).

Rule 26(d) of the Federal Rules of Civil Procedure (“Federal Rules”) states: “A party may

1 not seek discovery from any source before the parties have conferred as required by Rule 26(f),  
2 except in a proceeding exempted from initial disclosure . . . .” Rule 26(f) provides that, except in a  
3 proceeding exempted from initial disclosure under Rule 26(a)(1)(B) or when the court orders  
4 otherwise, the parties “must confer *as soon as practicable*” after the case is filed, “and in any event  
5 *at least* 21 days before a scheduling conference is to be held or a scheduling order is due under Rule  
6 16(b).” Fed. R. Civ. P. 26(f)(1) (emphasis added).

7  
8 MLW has, in compliance with Rule 26(f), requested a conference as soon as practicable, but  
9 WWE has refused to agree to any conference before the Court’s September 29 hearing on WWE’s  
10 motion to dismiss. (*See* Takenouchi Decl. ¶¶ 18–26). WWE cites its pending motion to dismiss to  
11 justify shirking its Rule 26(f) responsibilities, but “the Federal Rules of Civil Procedure does not  
12 provide for automatic or blanket stays of discovery when a potentially dispositive motion is  
13 pending.” *Mlejnecky v. Olympus Imaging Am., Inc.*, No. 2:10-CV-02630 JAM KJN, 2011 WL  
14 489743, at \*6 (E.D. Cal. Feb. 7, 2011). Further, WWE’s meritless motion to dismiss is not  
15 dispositive because, among other things, it fails to address MLW’s attempted monopolization claim  
16 and raises numerous issues of fact that cannot be decided at the pleading stage. *See* Plaintiff  
17 MLW’s Opposition to Defendant WWE’s Motion to Dismiss (ECF No. 33) (“Opp.”). Thus,  
18 WWE’s unilateral suspension of discovery undermines judicial efficiency and unnecessarily delays  
19 this litigation. WWE’s unilateral and unsupported refusal to participate in a Rule 26(f) conference  
20 before September 29 has imposed a *de facto* stay of discovery.

21  
22  
23 On May 11, 2022, MLW informed WWE that it would seek to compel WWE’s compliance  
24 with Rule 26(f). (*See* Takenouchi Decl. ¶ 20). However, MLW could not secure a hearing date in  
25 advance of the deadline for the Rule 26(f) conference and the Court suggested that the parties  
26 consider whether they could stipulate to holding the Initial Case Management Conference on

1 September 29, 2022 – the same date scheduled for the hearing on WWE’s motion to dismiss. (*See*  
2 Takenouchi Decl. ¶ 24). On May 24, 2022, MLW’s counsel asked whether WWE would agree to  
3 holding the Initial Case Management Conference on September 29, 2022, but WWE refused. (*See*  
4 Takenouchi Decl. ¶¶ 25–26).

5 MLW respectfully requests that the Court reset the Initial Case Management Conference for  
6 September 29, 2022 at 11 a.m. or as soon as possible thereafter so that the parties may conduct the  
7 Rule 26(f) conference and begin discovery. MLW will suffer substantial harm and prejudice without  
8 the Court’s intervention because, under WWE’s interpretation of the Federal Rules, the Rule 26(f)  
9 conference would not be required to be held until October 6, 2022, more than four months after the  
10 motion to dismiss has been fully briefed. (*See* Takenouchi Decl. ¶ 5). During this time, the parties  
11 will be foreclosed from conducting discovery.  
12

13 However, “courts generally disfavor delaying discovery until after a dispositive motion is  
14 resolved.” *Espineli v. Toyota Motor Sales, U.S.A., Inc.*, No. 2:17-cv-00698-KJM-CKD, 2019 WL  
15 3080808, at \*1-2 (E.D. Cal. July 15, 2019). “Had the Federal Rules contemplated that a motion to  
16 dismiss under Fed. R. Civ. P. 12(b)(6) would stay discovery, the Rules would contain a provision to  
17 that effect. In fact, such a notion is directly at odds with the need for expeditious resolution of  
18 litigation.” *Gray v. First Winthrop Corp.*, 133 F.R.D. 39, 40 (N.D. Cal. 1990).  
19

20 Moving the Initial Case Management Conference from October 27, 2022 to September 29,  
21 2022 – the same date that the Court is set to hear oral argument on WWE’s motion to dismiss –  
22 would promote judicial efficiency and enable the parties to proceed with discovery more  
23 expeditiously. *See* Fed. R. Civ. P. 1 (providing that the Federal Rules must be employed to “secure  
24 the just, speedy, and inexpensive determination of every action and proceeding.”). Indeed, it is  
25 well-established that a district court has the inherent power “to control the disposition of the causes  
26

on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Courts may also order parties to proceed with discovery while dispositive motions are pending. *See, e.g., Esguerra-Aguilar, Inc. v. Shapes Franchising, LLC*, No. 20-CV-00574-BLF, 2020 WL 8991731, at \*1-2 (N.D. Cal. May 1, 2020) (denying motion to continue initial case management conference while motion to compel arbitration was pending).

### **CONCLUSION**

Based on the foregoing, Plaintiff respectfully seeks an order resetting the Initial Case Management Conference for September 29, 2022 at 11 a.m. or as soon as possible thereafter.

Dated: June 24, 2022

Respectfully submitted,

/s/ Jason S. Takenouchi

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